

## **II. Remarks**

### **A. Status of the Claims**

Claims 1-5, 7-13 and 15-16 will be pending after entry of this amendment. Claims 6 and 14 have been cancelled without prejudice. Claims 1-5, 6-13 and 15-16 have been amended without prejudice. Support for the amendments can be found throughout the application as originally filed, specifically, e.g., at paragraph [103] of the Specification. Applicants respectfully submit that no new matter has been added by virtue of this amendment.

### **B. Claim Rejections under 35 U.S.C. § 103**

#### **1. Potter in view of Charette**

In the Final Office Action, claims 1, 4-7 and 12-16 were rejected as being unpatentable over U.S. Patent No. 5,787,402 to Potter in view of U.S. Patent Application Publication No. 2002/0069114 to Charette.

This rejection is respectfully traversed. Applicants submit that the combined teachings of Potter and Charette fail to render obvious the computer implemented methods for pricing a trade, as presently claimed. The Examiner is reminded that pursuant to MPEP, 8<sup>th</sup> Ed., 7<sup>th</sup> Rev. § 2142, to establish a prima facie case of obviousness, and thus sustain the rejection of a claim under 35 U.S.C. § 103(a), there must be a clear articulation of the reasons why Applicants' claimed invention would have been obvious. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). The Supreme Court in KSR has further noted that an analysis supporting a rejection under 35 U.S.C. § 103(a) should be made explicit. Therefore, it is clear that an obviousness rejection "cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006). Moreover, "[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." MPEP, 8<sup>th</sup> Ed. 7<sup>th</sup> Rev. § 706.02(j).

Applicants maintain their previous position that Potter and Charette are improperly combinable. However, in order to expedite prosecution of the application, Applicants have amended the claims without prejudice to include the limitation of *storing said trade data in a database of said pricing system and comparing said trade data against said database to prevent duplicate trade data entries*. Applicants submit that the combined teachings of Potter and Charette fail to obviate this limitation.

In making the rejection of claim 14, which recited the storage of trade data on the pricing system, the Examiner cited to col. 7, lines 53-56 of Potter, which allegedly describes this limitation. Applicants respectfully point out that the data stored in Potter is used simply to validate the Term via the time-stamp, as described in col. 8, lines 1-5 of Potter. However, in the present application, the trade data is stored in the pricing system and then compared to other stored trade data to prevent duplicate entries. Potter fails to teach, suggest or make obvious this concept.

Applicants further submit that Charette also fails to describe the limitation of *storing said trade data in a database of said pricing system and comparing said trade data against said database to prevent duplicate trade data entries* and therefore fails to cure the deficiencies of Potter.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be removed.

## **2. Potter in view of Charette and Finebaum**

In the Final Office Action, claims 2-3 and 8-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Potter in view of Charette and further in view of U.S. Application Publication No. 2002/0156719 to Finebaum.

This rejection is respectfully traversed. Applicants maintain their previous position that Potter, Charette and Finebaum are improperly combinable. However, as discussed *supra*, in order to expedite prosecution of the application Applicants have amended the claims without prejudice to include the limitation of *storing said trade data in a database of said pricing system and comparing said trade data against said database to prevent duplicate trade data entries*.

For the reasons discussed above, Applicants submit that the combined teachings of Potter and Charette fail to obviate this limitation.

Applicants further submit that Finebaum also fails to describe the limitation of *storing said trade data in a database of said pricing system and comparing said trade data against said database to prevent duplicate trade data entries* and therefore fails to cure the deficiencies of Potter and Charette.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be removed.

### **III. Conclusion**

In view of the arguments presented, it is believed that all claims are in condition for allowance. If the Examiner believes that issues may be resolved by a telephone interview, the Examiner is invited to telephone the undersigned at (973)597-6162. The undersigned also may be contacted via email at [epietrowski@lowenstein.com](mailto:epietrowski@lowenstein.com). All correspondence should be directed to our address listed below.

### **AUTHORIZATION**

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 50-1358.

Respectfully submitted,  
Lowenstein Sandler PC

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